

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

PATENT HARBOR, LLC,

Plaintiff,

v.

AUDIOVOX CORPORATION, *et al.*,

Defendants.

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Civil Action No. 6:10-cv-361-LED-JDL

JURY TRIAL DEMANDED

**PLAINTIFF PATENT HARBOR, LLC'S NOTICE REGARDING ITS MOTION TO
STRIKE EXPERT REPORTS OF THOMAS AND DONALDSON
(DKT. NO. 468) AND UNOPPOSED MOTION TO WITHDRAW SAME**

Plaintiff Patent Harbor, LLC ("Patent Harbor") respectfully notifies the Court as follows.

On August 14, 2012, the Court held a pretrial hearing in the above-captioned civil action. *See generally* Dkt. No. 502 ("Tr."). At that hearing, Patent Harbor urged its Motion to Strike Expert Reports of Thomas and Donaldson (Dkt. No. 468) ("Thomas Motion").¹ Tr. at 84:9-104:17. On August 30, 2012, the United States Court of Appeals for the Federal Circuit decided *LaserDynamics, Inc. v. Quanta Computer, Inc.*, Nos. 2011-1440, 2011-1470, 2012 WL 3758093 (Fed. Cir. Aug. 30, 2012), which addresses the admissibility of settlement agreements. In view of the Federal Circuit's recent guidance in *LaserDynamics*, Plaintiff respectfully notifies the Court that:

1. Plaintiff hereby moves the Court to WITHDRAW the Thomas Motion (Dkt. No. 468).

¹ As indicated at the hearing, Mr. Donaldson's report and testimony are no longer at issue. Tr. at 85:14-21.

2. During the August 14 hearing, Plaintiff's counsel advised the Court that, if the Thomas Motion were denied, Plaintiff's expert would need to supplement his expert report to consider the impending Toshiba settlement. Tr. at 96:24-99:19. Funai's counsel similarly advised the Court that the Toshiba agreement would be "an appropriate measure against which to assess the reasonable royalty for [Funai]." Tr. at 104:4-17. Plaintiff's damages expert, Dr. Stephen Becker, will issue a supplemental report further addressing the settlement agreements and including the Toshiba settlement agreement once it is completed and executed.

WHEREFORE, PREMISES CONSIDERED, Patent Harbor prays that the Court permit it to withdraw the Motion to Strike Expert Reports of Thomas and Donaldson (Dkt. No. 468).

Respectfully submitted,



Eric M. Albritton
Texas State Bar No. 00790215
ema@emafirm.com
Stephen E. Edwards
Texas State Bar No. 00784008
see@emafirm.com
Michael A. Benefield
Texas State Bar No. 24073408
mab@emafirm.com
Debra Coleman
Texas State Bar No. 24059595
drc@emafirm.com
ALBRITTON LAW FIRM
P.O. Box 2649
Longview, Texas 75606
Telephone: (903) 757-8449
Facsimile: (903) 758-7397

Russell T. Wong
Texas State Bar No. 21884235
rwong@counselip.com

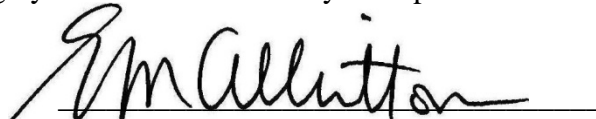
J. David Cabello
Texas State Bar No. 03574500
dcabello@counselip.com
Keith A. Rutherford
Texas State Bar No. 17452000
krutherford@counselip.com
John C. Cain
Texas State Bar No. 00783778
jcain@counselip.com
Scott Reese
Texas State Bar No. 24046696
sreese@counselip.com
Daniel Peterson
Texas State Bar No. 24065899
dpeterson@counselip.com
WONG, CABELLO, LUTSCH,
RUTHERFORD & BRUCCULERI, L.L.P.
20333 SH 249, Ste. 600
Houston, Texas 77070
Telephone: (832) 446-2400
Facsimile: (832) 446-2424

T. John Ward, Jr.
Texas State Bar No. 00794818
jw@wsfirm.com
Wesley Hill
Texas State Bar No. 24032294
wh@wsfirm.com
WARD & SMITH LAW FIRM
1127 Judson Road
Suite 220
Longview, Texas 75601
Telephone: (903) 757-6400
Facsimile: (903) 757-2323

Counsel for Plaintiff Patent Harbor, LLC

CERTIFICATE OF SERVICE

Pursuant to Federal Rule of Civil Procedure 5(d) and Local Rule CV-5(c), the undersigned certifies that the foregoing document is being filed electronically in compliance with Local Rule CV-5(a). As such, this document will be served on all counsel who are deemed to have consented to electronic service. Local Rule CV-5(a)(3)(A). Pursuant to Local Rule CV-5(d), any counsel of record not deemed to have consented to electronic service will be served with a true and correct copy of the foregoing by email on this 13th day of September 2012.


Eric M. Albritton

CERTIFICATE OF CONFERENCE

Pursuant to Local Rule CV-7(i), the undersigned certifies that counsel have complied with the meet and confer requirements of Local Rule CV-7(h) and that Funai does not oppose the foregoing Motion to Withdraw Plaintiff's Motion to Strike Expert Reports of Thomas and Donaldson (Dkt. No. 468).


Eric M. Albritton